

AB 982 Public Advisory Group

Meeting Held July 13 and 14 , 2000
Joint Administrative Office
Sanitation Districts of Los Angeles County
1955 Workman Mill Road
Whittier, CA

Meeting Summary

July 13, 2000

Welcome and Convene Meeting: Co-chairs David Beckman and Craig Johns convened the meeting at 9:20 am and declared a quorum.

Summary of June 16, 2000 meeting: The summary was approved by consensus.

Draft Proposal for a Comprehensive Surface Water Quality Monitoring Program: Craig Wilson noted that several Public Advisory Group (PAG) members submitted comments on the first draft, issued in June, covering a wide range of interests and concerns. Many of these comments were incorporated into the second draft.

Members were also reminded of the Scientific Advisory Group (SAG) meeting scheduled for August 10, 2000 in Sacramento. Twelve scientists were recommended by PAG members (six from the environmental community, six from the regulated community); staff added a few extra names, as was agreed upon at the June PAG meeting. All PAG members and interested parties are welcome to attend the SAG meeting. (REMINDER: PAG will meet the next day, August 11.)

Review of Consensus Points and Issues and Development of a Workplan: No PAG members asked to review any of the items arrived at by consensus or vote from previous meetings.

It was agreed that it would be wise to develop a workplan to guide the efforts of PAG in the remaining months before the State Water Resources Control Board's (SWRCB's) reports (the monitoring proposal and structure and effectiveness report) are submitted to the Legislature (end of November, 2000). The workplan would specify the topics that needed attention for each of PAG meetings through October. There was general agreement that having a workplan was a good idea. Procedurally, it was agreed that members should submit their workplan ideas to their respective co-chairs. Following this input a phone conference will be scheduled (co-chairs, Craig Wilson, Steve Ekstrom, and any other interested PAG members) to develop a final plan. These activities should be completed prior to the August PAG meeting.

Continued Discussion of Issues Related to Total Maximum Daily Loads:

Craig Wilson distributed a draft outline of the Structure and Effectiveness Report for the PAG's consideration. Members agreed to review the plan and have a full discussion on it the next morning.

Concern was expressed ~~by both co-chairs~~ that the SWRCB, perhaps because of other priorities, hasn't had an effective Total Maximum Daily Load (TMDL) program and that this needs to be acknowledged in the report and in other venues. Acknowledging this will advance the argument that an effective TMDL program must be developed and that it will carry a significant price tag.

For the remainder of the day there was dialogue on several TMDL-related topics. These topics were chosen from lists distributed the previous week by email from the regulated and environmental caucuses. The descriptions that follow capture themes and the range of comments made by individual PAG members (but not in all cases, a consensus of PAG members) on these topics. It was agreed that staff will take these comments into consideration as they prepare the TMDL structure and effectiveness report. The first draft of that report will be available for review at the August PAG meeting. There will be an ongoing dialogue between PAG and staff between August and October that will generate subsequent draft reports and will culminate in a final report to the Legislature in late November.

The following topics were discussed in some detail. The statements provide a summary of the range of issues that were discussed. The points presented were not approved by consensus.

Legacy Contributions of Pollutant Loads

It is very important to address legacy sources of pollution or contamination in the Regional Board's decision process in developing waste load allocations and load allocations.

Range of Options:

1. Include legacy contamination in establishing waste load allocations and load allocations (split load among nonpoint source/point source).
2. Address legacy contamination as a separate source. If responsible discharger is unknown, government agencies should address the problem.

Establishing Targets, Waste Load Allocations and Load Allocations

There is an absolute requirement for considering economics in the implementation of agriculture program and water quality objectives.

"Economics" needs to be considered in development of TMDLs.

“Economics” does not/may not be considered.

Range of Options:

1. Do not consider economics (to do so would make adoption of TMDLs too slow, not a part of the Clean Water Act (CWA) process for developing TMDLs).
2. Reconsider adopted water quality objectives with respect to Water Code Section 13241.
3. Consider economics (Section 13241) for water quality objectives when the TMDL target is developed.
4. Consider economics in the development of targets, waste load allocations, and load allocations.
5. Consider economics at the implementation stage. No economics analysis in TMDL (if to be considered at all, belongs at end of process).

Confirmation of Impairment

The SWRCB should develop specific guidance on TMDL problem statements.

Range of Considerations:

1. If the data are old, make sure the impairment is still there.
2. If the listing is based on a small amount of information, reaffirm the problem in the problem statement.
3. The problem statement should substantiate/discuss the water quality impairment determination.

4. No confirmation of impairment is appropriate or necessary.

Need clear, consistent listing criteria Policy in the future. The Policy should contain pre-TMDL delisting criteria to allow the regulated and environmental communities to evaluate the existence of the water quality problem.

The TMDL process is established in the CWA and cannot be used for all purposes. The TMDL process is separate from other processes such as triennial review, site-specific objectives, and use attainability analysis.

Public Forum: Members of the public were asked to comment. None chose to do so.

Adjourn: The meeting was adjourned at 4:10 p.m.

July 14, 2000

Reconvene the Meeting: Co-chairs David Beckman and Craig Johns reconvened the meeting at 8:40 am and declared a quorum.

Letter to the SWRCB: With respect to the conversation the previous day regarding the need to acknowledge that there currently is not an effective TMDL program, the co-chairs read a draft letter they had composed stressing this point. It was agreed by consensus to submit the letter.

Comments on the Outline of the TMDL Structure and Effectiveness Report: A substantial portion of the morning was used to review the outline. Comments made will shape the writing of the first draft of the report to be reviewed at the August PAG meeting. It was agreed that two new sections needed to be added, one titled “Assessment of Effectiveness” that would incorporate several parts currently in the TMDL Development section; and another titled, “Implementation.” There was discussion about whether PAG should write a separate TMDL report, or include comments in this report, or say nothing. It was decided by consensus that PAG’s comments should be in the report, not in the appendix, but in a separate chapter prior to the “Conclusions” section. Additionally, the PAG chapter should cite consensus areas as well as areas where consensus was not reached, and why it wasn’t reached. The important point here was to keep the comments in the chapter at a higher level, citing issues where consensus wasn’t reached and not detailing specific positions of either caucus.

Finally there were comments about what should be contained in the Appendix. The PAG said the Appendix could also contain: (1) a list of PAG members; (2) names of regional TMDL staff and how to reach them; and (3) reference to a website that will show a list of TMDLs needing to be completed.

Continued Discussion of Issues Related to Total Maximum Daily Loads: Continued from the previous day, there was dialogue on a range of topics.

Appropriate Time Periods to Develop TMDLs

1. Long timeframes in the new TMDL rule are too long.
2. Need to carefully lay out schedule to get TMDLs completed (may not have time for a stakeholder process).
3. Could use stakeholder process during implementation phase.
4. Cannot compromise good scientific peer review process though.
5. Use appropriate stakeholder process (1-2 meetings).

6. Approximately 1,400 TMDL's must be completed. RWQCBs beginning to group pollutants for TMDLs (e.g., Los Angeles Region has grouped pollutants into 60-70 groups).
7. Full stakeholder process takes a tremendous amount of time but that's how cities and counties do business in the 21st century.
8. ~~PAG may be able to develop consensus on pollutant grouping (addressing multiple pollutants in one TMDL)~~ Discussions were held on TMDL groupings (addressing multiple drainages in one TMDL) so TMDLs can be done more quickly. There were objections to this idea.
9. Complexity of TMDLs requires input of interested parties (but stakeholder consensus not required or frequent group meetings are not required).
10. Stakeholder process could be based on CEQA approach.
11. Proposal: The Boards would take comments on a scoping document on the TMDL, then the Board would develop and then take comment on the actual TMDL.
12. TMDLs should not be based on consensus, but everyone needs to be heard.
13. Stakeholder processes have a strong "public outreach" benefit. Stakeholder processes can be misused, can be inequitable, and can be inefficient and subversive.
14. Other way to assist in completing TMDLs more quickly:
 - A. Training (such as EPA's Water Quality Academy),
 - B. "Tech Centers" (which would allow RWQCBs to share information and approaches), remove the SWRCB from the TMDL approval list,
 - C. "Strike forces" or teams of SWRCB staff with specific expertise (e.g., nutrients, metals, sedimentation, etc.) that could address TMDL development in Regions,
 - D. Bring in staff from other agencies to assist in TMDL development (e.g., on pesticide issues), and
 - E. Start some difficult TMDLs early as opposed to tackling the easy ones only at first (makes schedule more realistic).
 - F. Send completed TMDLs to OAL and EPA unless there is an appeal (this would require a change in the Water Code).

Offset Programs

1. Both the environmental and regulatory communities do not like Offset Programs but for different reasons.
2. Offset Programs can be a voluntary option.
3. Many accountability issues need to be resolved: How do they work? If goals are not met, who receives enforcement action?
4. The State should not propose any specific offset program but should not hobble RWQCBs from using them.
5. State should be “constructively silent” with respect to offset programs.
6. Dairy industry apprehensive but will look at it.
7. An agency needs to manage offset program.
8. Offsets should focus on the “orphan share” pollutants or problems. Should not be able to offset the share an individual discharger is responsible for anyway, i.e., you would not be getting “something extra” if this were allowed.
9. If done at all, offset program should be in the same watershed.

Public Forum: Members of the public were asked to comment. None chose to do so.

Adjourn: The meeting was adjourned at 3:00 p.m.